

REMARKS

1. Amendments to the Claims

Claims 67 and 81 to 85 are herein cancelled.

Claims 65 and 102 have been amended to recite at least 95% sequence identity. Support for the amendment is found in the Specification at page 6, line 4.

Claim 66 has been amended to be consistent with claim 65.

Claims 71, 72, 76, and 100 have been amended for grammatical reasons.

Claim 73 has been amended to recite an operable linkage between the promoter and the nucleotide sequence. Support is found in the Specification at page 12, lines 13-23.

Claim 74 has been amended to depend from claim 73 to provide antecedent basis.

No new matter has been added.

2. Interview Summary

Applicants sincerely thank Examiner Baum for speaking with their representatives. During the Interview of November 3, 2009, the amendments to the claims listed above were discussed.

3. Objections to the Claims

The Examiner objects to claims 74 for depending from claim 72 instead of claim 73. Claim 74 has been amended. Applicants request that the objection be withdrawn.

4. Claim Rejections under 35 U.S.C. § 112, Written Description

The Examiner rejects claims 65-66, 68-80, 86, and 88-99 under 35 U.S.C. § 112, first paragraph, as lacking sufficient written description. The claims recite 95% sequence identity to the listed SEQ ID NOs. Although Applicants do not concede that a lower sequence identity is not supported, in order to further prosecution the claims have been amended to recite 95%. Applicants submit that the claims are amply supported by sufficient description. Applicants request that the rejection be withdrawn.

5. Claim Rejections under 35 U.S.C. § 112, Enablement

The Examiner has rejected claims 102-105 under 35 U.S.C. § 112, first paragraph as not being enabled by the Specification. Although Applicants do not concede that a lower sequence identity is not enabled, in order to further prosecution the claims have been amended to recite 95% sequence identity. Applicants submit that the disclosure enables one of skill in the art to make and use the claimed invention. Applicants request that the rejection be withdrawn.

6. Claims 86-87 and 100-101

The Examiner objects to claim 86-87 and 100-101 as being dependent upon a rejected base claim. Applicants submit that the amendments to the claims contained herein and the remarks as noted above, fully address the Examiner's concerns about the base claims. Accordingly, Applicants request that the objection be withdrawn.

CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Leonard R. Svensson Reg. No. 30,330 at the

Application No. 10/507,355
Amendment dated November 10, 2009
Office Action dated October 29, 2009

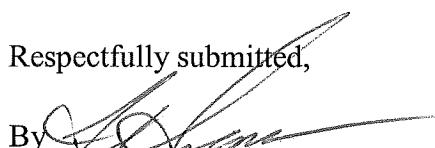
Docket No.: 0147-0262PUS1

telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: November 13, 2009

Respectfully submitted,

By 

Leonard R. Svensson
Registration No.: 30,330
BIRCH, STEWART, KOLASCH & BIRCH, LLP
12770 High Bluff Drive
Suite 260
San Diego, California 92130
(858) 792-8855
Attorney for Applicant